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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,118	07/21/2004	Maritz Georg Nicolaas	436-2	2113

24336 7590 11/09/2007
KEUSEY, TUTUNJIAN & BITETTO, P.C.
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WOODBURY, NY 11797

EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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11/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/502,118

Applicant(s)

NICOLAAS, MARITZ GEORG

Examiner

Joanne Silbermann

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31,34-39 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) 46 and 47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31,34-39,44,45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 46 and 47 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 15, 2006.

Applicant has elected the beverage container. New claims 46 and 47 are directed toward the holder.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the watermark (claim 44) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The watermark is described as element 17 (page 6 line 29 of Applicant's Specification) however element 17 appears to be the underside of insert 16, as described in line 14. Correction is required.

Specification

2. The disclosure is objected to because of the following informalities:
 3. The base is described as being both element 6 and element 21.
 4. Element 6 is described as being both a base and an insert.
 5. Element 12 is described as being a rim, a ring clamp, and a cup holder.
 6. Element 17 is described as being the underside of insert 16 and a watermark or sign.
 7. Element 16 is described as being a transparent logo, a second insert, and a transparent foil.
 8. Element 15 is described as being both a reflector bowl and a reflection bowl.
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 45 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear how the reflector can be described as a reflector bowl in the elected embodiment of the beverage container.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 31, 34-36, 38 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witkowski, US #6,594,927 in view of Murakami, US #5,811,174.

13. Witkowski discloses a disposable beverage container having a flexible substrate adhesively secured thereto (column 4 line 41, column 9 line 42). The substrate may include glow-in-the-dark indicia made with phosphorescent material (column 16 lines 19-47). Witkowski also discloses a transparent cover that may be applied to the substrate (column 19 lines 1-20).

14. Witkowski does not teach a reflector above or below the phosphorescent material, however this is well known in the art as shown by Murakami. Murakami teaches a phosphorescent display including layer 1 which is reflective, below phosphorescent layer 3. This enables light to be efficiently absorbed in the

phosphorescent layer and provides faster excitation therefor (column 3 line 44 through column 4 line 16). It would have been obvious to a person having ordinary skill in the art to utilize such a reflective layer in the phosphorescent article of Witkowski so as to provide better (and faster) illumination of the display when utilizing incident light.

15. Claims 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witkowski and Murakami as applied to claim 31 above, and further in view of Berman, US #4,907,359.

16. Witkowski does not teach the cover as being detachably engaged or having color. Berman teaches a cover for a display wherein cover 4 includes color or patterns and is attached to display tag 1 by pressure sensitive adhesive (column 2 lines 45-59). It would have been obvious to a person having ordinary skill in the art to utilize such a cover in the display of Witkowski so that the cover may be removed and to add further decorative elements to the display by making it colored.

17. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Witkowski and Murakami as applied to claim 34 above, and further in view of Edwards, US #5,388,862.

18. Witkowski and Murakami do not teach a watermark, however such marks are old and well known in the art of displays. Edwards teaches a display including watermark 24 (column 6 line 46). It would have been obvious to one of ordinary skill in the art to utilize such a watermark on the display of Witkowski (as modified by Murakami) to provide further decoration/indicia to the display.

Response to Arguments

19. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

20. A new reference has been applied in response to Applicant's amendment to the claims adding a reflector.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patent 5868902 is cited as of interest.

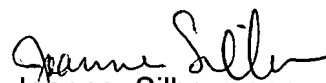
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Joanne Silberman
Primary Examiner
Art Unit 3611

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05 November 2007